

## **REMARKS**

Claims 45 and 46 are new. Claims 28 and 34 are canceled. Claims 23, 27, 31, 35 and 38 were amended. No new matter has been added to the claims. Claims 23 to 46 are now pending. Applicants respectfully request reconsideration of the present application in view of this response.

***Claims 23 to 27, 29 to 31, and 33 to 42, were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,570,439 to Ido (“Ido reference”).***

The Ido reference is directed to an optical waveguide device in which an optical signal is incident on a semiconductor optical waveguide with a grating and is reflected or transmitted therethrough to perform dispersion compensation. The Ido reference indicates that a temperature of the optical waveguide is varied by a resistance heater.

Claim 23 is directed to a device for adjusting the chromatic dispersion in an optical transmission system, and requires an optical element having a temperature-dependent chromatic dispersion, a device for measuring an ambient temperature of at least one section of the optical element to generate a measured value; and a device for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, the device adjusting in response to the measured value, the device for adjusting including a heating device.

The Ido reference is not believed to identically disclose a device for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, or the device, having a heating device, to adjust in response to the measured value, as required by claim 23. Accordingly, Applicants respectfully submit that the Ido reference does not identically disclose each and every feature of claim 23. Claim 31 (heating device) recites features analogous to claim 23, and is believed allowable for essentially the same reasons as claim 23. Claim 38 claims a temperature chamber. Claim 37 depends from claim 31, and claims 39 to 44 depend from claim 38, and are believed allowable for at least the same reasons. Withdrawal of the rejection under 35 U.S.C. § 102(e) of claims 23 to 27, 29 to 31, and 33 to 42, is respectfully requested.

***Claims 23 to 27, 29 to 31, and 33 to 42, were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,793,917 to Yoshimura (“Yoshimura reference”).***

The Yoshimura reference appears to concern a dispersion compensating apparatus compensates for a dispersion which occurs in a submarine optical fiber transmission system that operates on optical amplification relay principles for the purpose of easily repairing an optical fiber cable and dispersion compensating cables. According to this

reference, a plurality of optical amplifiers are placed in the optical fiber cable. While the Yoshimura reference refers to having a temperature maintaining unit 10, and a temperature controlling unit 13 which controls the predetermined temperature maintained by the temperature maintaining unit 10 based on the deviation calculated by the calculating unit 12, such reference is not the same as claimed. Accordingly, the Yoshimura reference is not believed to identically disclose a device for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, or the device, having a heating device, to adjust in response to the measured value, as required by claim 23. Accordingly, Applicants respectfully submit that the Yoshimura reference does not identically disclose each and every feature of claim 23. Claim 31 recites features analogous to claim 23, and is believed allowable for essentially the same reasons as claim 23. Claim 38 recites some features analogous to claim 23, and also claims a temperature chamber. Claim 37 depends from claim 31, and claims 39 to 44 depend from claim 38, and are believed allowable for at least the same reasons. Withdrawal of the rejection under 35 U.S.C. § 102(b) of claims 23 to 27, 29 to 31, and 33 to 42, is respectfully requested.

***Claim 28 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Yoshimura reference in view of U.S. Patent Publication No. 2002/0006257 to Danziger (“Danziger reference”).***

Claim 28 depends from claim 23, and, as discussed above, Applicants respectfully submit that the Yoshimura reference does not disclose each and every feature of claim 23. Accordingly, claim 28 is believed allowable over the Yoshimura reference.

The Danziger reference does not cure the deficiencies of the Yoshimura reference. The Danziger reference’s element reference 170 is cited to show that a temperature control device includes a thermostat, as in claim 28. However, the Danziger reference concerns a variable dispersion compensation device which uses a thermocoupler 170 to measure the temperature of a heat conducting spool 115 which is on a feedback loop. This is not the same as in claim 28 which requires a thermostat for adjusting at least one of the temperature and the temperature distribution of the optical element. Accordingly, Applicants respectfully submit that the combination of the Yoshimura and Danziger references do not teach or describe each and every feature of claim 28. Withdrawal of the rejection under 35 U.S.C. § 103(a) of claim 28, is respectfully requested.

***Claims 32, 43, and 44, were rejected under 35 U.S.C. § 103(a) as unpatentable over the Yoshimura reference in view of U.S. Patent No. 6,771,904 to Sasaki (“Sasaki reference”).***

Claim 32 depends from claim 31, claims 43 and 44 depend from claim 38, and, as discussed above, Applicants respectfully submit that the Yoshimura reference does not disclose each and every feature of claims 32, 43, and 44. Accordingly, claims 32, 43, and 44, are believed allowable over the Yoshimura reference.

The Sasaki reference does not cure the deficiencies of the Yoshimura reference. The Sasaki reference appears to concern an optical transmission system having a test signal generator 105 for generating a test signal. However, the Sasaki reference does not teach or describe, among other things, as required in the claims, a device for adjusting the chromatic dispersion in an optical transmission system, and specifically, does not have a device for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, the device adjusting in response to the measured value. Further, the Sasaki reference does not teach or describe how to use a test signal generator in the specific manner provided for and needed in the present invention. Instead, the test signal generator 105 in the Sasaki reference has its own requirements and specification for that specific disclosure. Accordingly, Applicants respectfully submit that the Yoshimura and Sasaki references do not teach or describe each and every feature of claims 32, 43, and 44. Each is believed allowable for essentially the same reasons as claim 23. Withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 32, 43, and 44, is respectfully requested.

In summary, it is respectfully submitted that all of claims 23 to 46 are believed allowable for the foregoing reasons.

### CONCLUSION

In view of the foregoing, it is believed that the rejections have been obviated, and that all claims 23 to 46 are allowable. It is therefore respectfully requested that the rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

Dated: December 23, 2009

By: /Linda Lecomte/  
Linda Shudy Lecomte (Reg. No. 47,084)

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200

**CUSTOMER NO. 26646**